



#17  
DMT  
73-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Donoho *et al.* Group Art Unit: 1647  
Application No.: 09/800,103 Examiner: R. S. Landsman  
Filed: 03/06/01  
Title: Polynucleotides and Polypeptides Encoding Human Transporter Proteins Atty. Docket No. LEX-0143-USA

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER  
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

MS AF  
Commissioner for Patents  
Alexandria, VA 22313

RECEIVED  
JUN 24 2003  
TECH CENTER 1600/2900

Sir:

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner in the Final Office Action mailed on March 19, 2003 (Paper No. 14) and affirmed in the Advisory Action mailed June 5, 2003 (Paper No. 16), finally rejecting claims 1-3, 13 and 14.

The fee as required under 37 C.F.R. § 1.17(b) for filing this Notice of Appeal is \$160.00, and the Commissioner is hereby authorized to deduct this fee from Applicants' Representatives' Deposit Account No. 50-0892. Applicants believe no fees in addition to the fees for filing the Notice of Appeal are due in connection with this communication. However, should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason related to this communication, the Commissioner is authorized to charge any underpayment or credit any overpayment to Lexicon Genetics Incorporated Deposit Account No. 50-0892.

06/24/2003 AWONDAF1 00000065 500892 09800103  
01 FC:2401 160.00 DA

June 19, 2003  
Date

Respectfully submitted,

Lance K. Ishimoto by David W. Haber DAVID W. HABER  
Lance K. Ishimoto Reg. No. 41,866  
Agent For Applicants



LEXICON GENETICS INCORPORATED  
(281) 863-3110



AF 1600  
\$

Please type a plus sign (+) inside this box → ☒

PFO/SB/21 (08-00)

Approval for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	<b>Application Number</b>	09/800,103	
	<b>Filing Date</b>	03/06/01	
	<b>First Named Inventor</b>	Donoho	
	<b>Group Art Unit</b>	1647	
	<b>Examiner Name</b>	R. S. Landsman	
<b>Total Number of Pages in This Submission</b>	4	<b>Attorney Docket Number</b>	LEX-0129-USA

RECEIVED

JUN 24 2003

TECH CENTER 1600/2900

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): return postcard
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	<b>Remarks</b>	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		



24231

PATENT TRADEMARK OFFICE

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

<b>Firm or Individual name</b>	Lance K. Ishimoto Reg. No. 41,866 Lexicon Genetics Incorporated
<b>Signature</b>	Lance K. Ishimoto David W. Hsiao Reg. No. 41,071
<b>Date</b>	June 19, 2003

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, MS AF, P.O. Box 1450, Alexandria, VA 22313 on this date: June 19, 2003			
<b>Typed or printed name</b>	Nancy Stacey		
<b>Signature</b>		<b>Date</b>	June 19, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



<b>FEE TRANSMITTAL</b> <b>for FY 2003</b> <i>Patent fees are subject to annual revision.</i>		<b>Complete if Known</b>	
		Application Number	09/800,103
		Filing Date	03/06/01
		First Named Inventor	Donoho
		Examiner Name	R. S. Landsman
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Group Art Unit	1647
TOTAL AMOUNT OF PAYMENT (\$)		160.00	Attorney Docket No. LEX-0143-USA

**RECEIVED**  
**JUN 24 2003**  
**TECH CENTER 1600/2900**

<b>METHOD OF PAYMENT (check all that apply)</b>		<b>FEE CALCULATION (continued)</b>																																																																																																																																																																																															
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input type="checkbox"/> Deposit Account Deposit Account Number: 50-0892 Deposit Account Name: Lexicon Genetics Incorporated		<b>3. ADDITIONAL FEES</b>																																																																																																																																																																																															
The Commissioner is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.		<table border="1"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr><tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr><tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr><tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for <i>ex parte</i> reexamination</td><td></td></tr><tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr><tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840**</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr><tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr><tr><td>1252</td><td>410</td><td>2252</td><td>205</td><td>Extension for reply within second month</td><td></td></tr><tr><td>1253</td><td>930</td><td>2253</td><td>465</td><td>Extension for reply within third month</td><td></td></tr><tr><td>1254</td><td>1,450</td><td>2254</td><td>725</td><td>Extension for reply within fourth month</td><td></td></tr><tr><td>1255</td><td>1,970</td><td>2255</td><td>985</td><td>Extension for reply within fifth month</td><td></td></tr><tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td><td>160.00</td></tr><tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr><tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td><td></td></tr><tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr><tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - unavoidable</td><td></td></tr><tr><td>1453</td><td>1,280</td><td>2453</td><td>640</td><td>Petition to revive - unintentional</td><td></td></tr><tr><td>1501</td><td>1,280</td><td>2501</td><td>640</td><td>Utility issue fee (or reissue)</td><td></td></tr><tr><td>1502</td><td>460</td><td>2502</td><td>230</td><td>Design issue fee</td><td></td></tr><tr><td>1503</td><td>620</td><td>2503</td><td>310</td><td>Plant issue fee</td><td></td></tr><tr><td>1460</td><td>130</td><td>1460</td><td>130</td><td>Petitions to the Commissioner</td><td></td></tr><tr><td>1807</td><td>50</td><td>1807</td><td>50</td><td>Processing fee under 37 CFR 1.17(q)</td><td></td></tr><tr><td>1806</td><td>180</td><td>1806</td><td>180</td><td>Submission of Information Disclosure Stmt</td><td></td></tr><tr><td>8021</td><td>40</td><td>8021</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td><td></td></tr><tr><td>1809</td><td>740</td><td>2809</td><td>370</td><td>Filing a submission after final rejection (37 CFR § 1.129(a))</td><td></td></tr><tr><td>1810</td><td>740</td><td>2810</td><td>370</td><td>For each additional invention to be examined (37 CFR § 1.129(b))</td><td></td></tr><tr><td>1801</td><td>740</td><td>2801</td><td>370</td><td>Request for Continued Examination (RCE)</td><td></td></tr><tr><td>1802</td><td>900</td><td>1802</td><td>900</td><td>Request for expedited examination of a design application</td><td></td></tr><tr><td colspan="2">Other fee (specify)</td><td colspan="2"></td><td></td><td></td></tr><tr><td colspan="2">SUBTOTAL (1) (\$)</td><td colspan="2"></td><td>SUBTOTAL (3) (\$)</td><td>160.00</td></tr></tbody></table>		Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1051	130	2051	65	Surcharge - late filing fee or oath		1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet		1053	130	1053	130	Non-English specification		1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination		1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action		1805	1,840*	1805	1,840**	Requesting publication of SIR after Examiner action		1251	110	2251	55	Extension for reply within first month		1252	410	2252	205	Extension for reply within second month		1253	930	2253	465	Extension for reply within third month		1254	1,450	2254	725	Extension for reply within fourth month		1255	1,970	2255	985	Extension for reply within fifth month		1401	320	2401	160	Notice of Appeal	160.00	1402	320	2402	160	Filing a brief in support of an appeal		1403	280	2403	140	Request for oral hearing		1451	1,510	1451	1,510	Petition to institute a public use proceeding		1452	110	2452	55	Petition to revive - unavoidable		1453	1,280	2453	640	Petition to revive - unintentional		1501	1,280	2501	640	Utility issue fee (or reissue)		1502	460	2502	230	Design issue fee		1503	620	2503	310	Plant issue fee		1460	130	1460	130	Petitions to the Commissioner		1807	50	1807	50	Processing fee under 37 CFR 1.17(q)		1806	180	1806	180	Submission of Information Disclosure Stmt		8021	40	8021	40	Recording each patent assignment per property (times number of properties)		1809	740	2809	370	Filing a submission after final rejection (37 CFR § 1.129(a))		1810	740	2810	370	For each additional invention to be examined (37 CFR § 1.129(b))		1801	740	2801	370	Request for Continued Examination (RCE)		1802	900	1802	900	Request for expedited examination of a design application		Other fee (specify)						SUBTOTAL (1) (\$)				SUBTOTAL (3) (\$)	160.00
Large Entity		Small Entity		Fee Description	Fee Paid																																																																																																																																																																																												
Fee Code	Fee (\$)	Fee Code	Fee (\$)																																																																																																																																																																																														
1051	130	2051	65	Surcharge - late filing fee or oath																																																																																																																																																																																													
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet																																																																																																																																																																																													
1053	130	1053	130	Non-English specification																																																																																																																																																																																													
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination																																																																																																																																																																																													
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action																																																																																																																																																																																													
1805	1,840*	1805	1,840**	Requesting publication of SIR after Examiner action																																																																																																																																																																																													
1251	110	2251	55	Extension for reply within first month																																																																																																																																																																																													
1252	410	2252	205	Extension for reply within second month																																																																																																																																																																																													
1253	930	2253	465	Extension for reply within third month																																																																																																																																																																																													
1254	1,450	2254	725	Extension for reply within fourth month																																																																																																																																																																																													
1255	1,970	2255	985	Extension for reply within fifth month																																																																																																																																																																																													
1401	320	2401	160	Notice of Appeal	160.00																																																																																																																																																																																												
1402	320	2402	160	Filing a brief in support of an appeal																																																																																																																																																																																													
1403	280	2403	140	Request for oral hearing																																																																																																																																																																																													
1451	1,510	1451	1,510	Petition to institute a public use proceeding																																																																																																																																																																																													
1452	110	2452	55	Petition to revive - unavoidable																																																																																																																																																																																													
1453	1,280	2453	640	Petition to revive - unintentional																																																																																																																																																																																													
1501	1,280	2501	640	Utility issue fee (or reissue)																																																																																																																																																																																													
1502	460	2502	230	Design issue fee																																																																																																																																																																																													
1503	620	2503	310	Plant issue fee																																																																																																																																																																																													
1460	130	1460	130	Petitions to the Commissioner																																																																																																																																																																																													
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)																																																																																																																																																																																													
1806	180	1806	180	Submission of Information Disclosure Stmt																																																																																																																																																																																													
8021	40	8021	40	Recording each patent assignment per property (times number of properties)																																																																																																																																																																																													
1809	740	2809	370	Filing a submission after final rejection (37 CFR § 1.129(a))																																																																																																																																																																																													
1810	740	2810	370	For each additional invention to be examined (37 CFR § 1.129(b))																																																																																																																																																																																													
1801	740	2801	370	Request for Continued Examination (RCE)																																																																																																																																																																																													
1802	900	1802	900	Request for expedited examination of a design application																																																																																																																																																																																													
Other fee (specify)																																																																																																																																																																																																	
SUBTOTAL (1) (\$)				SUBTOTAL (3) (\$)	160.00																																																																																																																																																																																												
<b>1. BASIC FILING FEE</b>		<b>2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</b>																																																																																																																																																																																															
<table border="1"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1001</td><td>750</td><td>2001</td><td>375</td><td>Utility filing fee</td><td></td></tr><tr><td>1002</td><td>330</td><td>2002</td><td>165</td><td>Design filing fee</td><td></td></tr><tr><td>1003</td><td>520</td><td>2003</td><td>260</td><td>Plant filing fee</td><td></td></tr><tr><td>1004</td><td>750</td><td>2004</td><td>375</td><td>Reissue filing fee</td><td></td></tr><tr><td>1005</td><td>160</td><td>2005</td><td>80</td><td>Provisional filing fee</td><td></td></tr><tr><td colspan="4">SUBTOTAL (1) (\$)</td><td></td><td></td></tr></tbody></table>		Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1001	750	2001	375	Utility filing fee		1002	330	2002	165	Design filing fee		1003	520	2003	260	Plant filing fee		1004	750	2004	375	Reissue filing fee		1005	160	2005	80	Provisional filing fee		SUBTOTAL (1) (\$)						<table border="1"><thead><tr><th colspan="2">Extra Claims</th><th colspan="2">Fee from below</th><th colspan="2">Fee Paid</th></tr><tr><th>Total Claims</th><th>-20**=</th><th>X</th><th></th><th>=</th><th></th></tr><tr><th>Independent Claims</th><th>-3**=</th><th>X</th><th></th><th>=</th><th></th></tr><tr><th>Multiple Dependent</th><th></th><th></th><th></th><th>=</th><th></th></tr></thead><tbody><tr><td colspan="6">SUBTOTAL (2) (\$)</td></tr></tbody></table>		Extra Claims		Fee from below		Fee Paid		Total Claims	-20**=	X		=		Independent Claims	-3**=	X		=		Multiple Dependent				=		SUBTOTAL (2) (\$)																																																																																																																							
Large Entity		Small Entity		Fee Description	Fee Paid																																																																																																																																																																																												
Fee Code	Fee (\$)	Fee Code	Fee (\$)																																																																																																																																																																																														
1001	750	2001	375	Utility filing fee																																																																																																																																																																																													
1002	330	2002	165	Design filing fee																																																																																																																																																																																													
1003	520	2003	260	Plant filing fee																																																																																																																																																																																													
1004	750	2004	375	Reissue filing fee																																																																																																																																																																																													
1005	160	2005	80	Provisional filing fee																																																																																																																																																																																													
SUBTOTAL (1) (\$)																																																																																																																																																																																																	
Extra Claims		Fee from below		Fee Paid																																																																																																																																																																																													
Total Claims	-20**=	X		=																																																																																																																																																																																													
Independent Claims	-3**=	X		=																																																																																																																																																																																													
Multiple Dependent				=																																																																																																																																																																																													
SUBTOTAL (2) (\$)																																																																																																																																																																																																	
<b>2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</b>																																																																																																																																																																																																	
<table border="1"><thead><tr><th colspan="2">Large Entity</th><th colspan="2">Small Entity</th><th rowspan="2">Fee Description</th><th rowspan="2">Fee Paid</th></tr><tr><th>Fee Code</th><th>Fee (\$)</th><th>Fee Code</th><th>Fee (\$)</th></tr></thead><tbody><tr><td>1202</td><td>18</td><td>2202</td><td>9</td><td>Claims in excess of 20</td><td></td></tr><tr><td>1201</td><td>84</td><td>2201</td><td>42</td><td>Independent claims in excess of 3</td><td></td></tr><tr><td>1203</td><td>280</td><td>2203</td><td>140</td><td>Multiple dependent claim, if not paid</td><td></td></tr><tr><td>1204</td><td>84</td><td>2204</td><td>42</td><td>**Reissue independent claims over original patent</td><td></td></tr><tr><td>1205</td><td>18</td><td>2205</td><td>9</td><td>** Reissue claims in excess of 20 and over original patent</td><td></td></tr><tr><td colspan="4">SUBTOTAL (2) (\$)</td><td></td><td></td></tr></tbody></table>		Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1202	18	2202	9	Claims in excess of 20		1201	84	2201	42	Independent claims in excess of 3		1203	280	2203	140	Multiple dependent claim, if not paid		1204	84	2204	42	**Reissue independent claims over original patent		1205	18	2205	9	** Reissue claims in excess of 20 and over original patent		SUBTOTAL (2) (\$)																																																																																																																																																							
Large Entity		Small Entity		Fee Description	Fee Paid																																																																																																																																																																																												
Fee Code	Fee (\$)	Fee Code	Fee (\$)																																																																																																																																																																																														
1202	18	2202	9	Claims in excess of 20																																																																																																																																																																																													
1201	84	2201	42	Independent claims in excess of 3																																																																																																																																																																																													
1203	280	2203	140	Multiple dependent claim, if not paid																																																																																																																																																																																													
1204	84	2204	42	**Reissue independent claims over original patent																																																																																																																																																																																													
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent																																																																																																																																																																																													
SUBTOTAL (2) (\$)																																																																																																																																																																																																	

<b>SUBMITTED BY</b>		<b>Complete (if applicable)</b>	
Name (Print/Type)	Lance K. Ishimoto	Registration No. (Attorney/Agent)	41,866
Signature	<i>Lance K. Ishimoto by David W. Haber</i>	Telephone	(281) 863-3333
	DAVID W. HABER REG. NO. 44,071	Date	June 19, 2003

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization of PTO-2038.**

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



24221